

AMENDED IN ASSEMBLY AUGUST 23, 2004
AMENDED IN ASSEMBLY AUGUST 18, 2004
AMENDED IN ASSEMBLY AUGUST 16, 2004
AMENDED IN ASSEMBLY AUGUST 5, 2004
AMENDED IN ASSEMBLY JULY 28, 2004
AMENDED IN ASSEMBLY JUNE 30, 2004
AMENDED IN ASSEMBLY JUNE 16, 2004

SENATE BILL

No. 1596

Introduced by Senator Ducheny

February 20, 2004

An act to amend Sections 3361, 3362, 3691, 3691.2, and 4217 of, and to add Section 3692.4 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1596, as amended, Ducheny. Taxation: delinquent taxes: public auction.

Existing

(1) *Existing* property tax law generally authorizes a county tax collector to sell tax-defaulted property 5 years or more, or 3 years or more, as applicable, after that property has become tax defaulted. Existing law also authorizes a public agency, as provided, or a nonprofit organization to file a written objection to a proposed sale of tax-defaulted property. The written objection shall include certain written statements regarding the potential public use of the property, in

the case of a public agency, or certain written statements regarding the rehabilitation and use of the property for low-income persons, in the case of a nonprofit organization.

This bill would permit a city, county, city and county, or nonprofit organization to request the tax collector to bring any residential real property that is not occupied by the owner as his or her principal place of residence to the next scheduled public auction if the taxes on the real property have been delinquent for at least 3 years and the real property will provide housing or services directly related to low-income persons. This bill also enumerates information that must be included in the request, and requires the tax collector to include the real property in the next scheduled public auction upon receiving the request. This bill would require a deed restriction to be placed on real property acquired by a nonprofit organization, as specified, and would also make conforming changes with respect to the requirement to sell tax-defaulted property and the notice of that sale.

By imposing new requirements upon tax collectors, this bill would impose a state-mandated local program.

~~The~~

(2) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) *This bill would incorporate the substantive changes in Sections 3361, 3362, 3691, 3691.2, and 4217 of the Revenue and Taxation Code proposed by both this bill and AB 2144, which would become operative only if AB 2144 and this bill are both chaptered and become effective January 1, 2005, and this bill is chaptered last.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3361 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 3361. Annually, on or before June 8th, the tax collector shall
- 4 publish a notice of power and intent to sell all property which will
- 5 be tax defaulted for either of the following:



1 (a) Five years or more on the date specified.

2 (b) Three or more years on the date specified in the case of
3 residential real property that could serve the public benefit by
4 providing housing or services directly related to low-income
5 persons, for which a request has been made by a city, county, city
6 and county, or nonprofit organization, pursuant to Section 3692.4,
7 to offer that property at the next scheduled public auction.

8 *SEC. 1.5. Section 3361 of the Revenue and Taxation Code is*
9 *amended to read:*

10 3361. Annually, on or before June 8th, the tax collector shall
11 publish a notice of power and intent to sell all property ~~which that~~
12 ~~will be tax defaulted for five years or more on the date specified.~~
13 *one of the following:*

14 (a) *Five years or more on the date specified.*

15 (b) *Three or more years on the date specified in the case of*
16 *residential real property that could serve the public benefit by*
17 *providing housing or services directly related to low-income*
18 *persons, for which a request has been made by a city, county, city*
19 *and county, or nonprofit organization, pursuant to Section 3692.4,*
20 *to offer that property at the next scheduled public auction.*

21 (c) *Three years or more in the case of nonresidential*
22 *commercial property, as defined in Section 3691, in an applicable*
23 *county, on the date specified.*

24 *SEC. 2. Section 3362 of the Revenue and Taxation Code is*
25 *amended to read:*

26 3362. The published notice shall show:

27 (a) The date of the notice.

28 (b) That on July 1, five years or more will have elapsed since
29 the property became tax defaulted, or in the case of residential real
30 property that could serve the public benefit by providing housing
31 or services directly related to low-income persons, three years or
32 more have elapsed, and a request has been made by a city, county,
33 city and county, or nonprofit organization, pursuant to Section
34 3692.4, to offer that property at the next scheduled public auction.

35 (c) That, unless sooner redeemed or an installment plan of
36 redemption is initiated, the property will be sold.

37 (d) That the power to sell for nonpayment of taxes arises if the
38 property remains tax defaulted at 12:01 a.m. on July 1.

39 (e) That if the property is sold for nonpayment of taxes the right
40 of redemption will terminate.

1 (f) The official who will furnish all information concerning
2 redemption.

3 (g) The fiscal year for which the defaulted taxes were levied.

4 (h) A description of the property. The assessments contained in
5 this notice shall be numbered in ascending numerical order.

6 (i) The amount of taxes originally declared in default opposite
7 the description of the property.

8 (j) The name of the assessee on the current roll.

9 (k) The street address of the property, if any, shown on the
10 county assessment records.

11 *SEC. 2.5. Section 3362 of the Revenue and Taxation Code is*
12 *amended to read:*

13 3362. The published notice shall show:

14 (a) The date of the notice.

15 (b) (1) That on July 1, five years or more will have elapsed
16 since the property became tax defaulted; *or*

17 (2) *That, on July 1, three years or more in the case of*
18 *nonresidential commercial property, as defined in Section 3691, in*
19 *an applicable county will have elapsed since the property became*
20 *tax defaulted; or*

21 (3) *That, on July 1, in the case of residential real property that*
22 *could serve the public benefit by providing housing or services*
23 *directly related to low-income persons, three years or more have*
24 *elapsed, and a request has been made by a city, county, city and*
25 *county, or nonprofit organization, pursuant to Section 3692.4, to*
26 *offer that property at the next scheduled public auction.*

27 (c) That, unless sooner redeemed or an installment plan of
28 redemption is initiated, the property will be sold.

29 (d) That the power to sell for nonpayment of taxes arises if the
30 property remains tax defaulted at 12:01 a.m. on July 1.

31 (e) That if the property is sold for nonpayment of taxes the right
32 of redemption will terminate.

33 (f) The official who will furnish all information concerning
34 redemption.

35 (g) The fiscal year for which the defaulted taxes were levied.

36 (h) A description of the property. The assessments contained in
37 this notice shall be numbered in ascending numerical order.

38 (i) The amount of taxes originally declared in default opposite
39 the description of the property.

40 (j) The name of the assessee on the current roll.

(k) The street address of the property, if any, shown on the county assessment records.

SEC. 3. Section 3691 of the Revenue and Taxation Code is amended to read:

3691. (a) (1) Five years or more after the property has become tax defaulted, the tax collector shall have the power to sell and shall attempt to sell in accordance with Section 3692 all or any portion of tax-defaulted property that has not been redeemed, without regard to the boundaries of the parcels, as provided in this chapter, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to, or interest in, the property, may purchase at the sale. In the case of tax-defaulted property that has been damaged by a disaster in an area declared to be a disaster area by local, state, or federal officials and whose damage has not been substantially repaired, the five-year period set forth in this subdivision shall be tolled until five years have elapsed from the date the damage to the property was incurred.

(2) When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.

(b) (1) (A) Three years or more after the property has become tax defaulted and subject to a nuisance abatement lien or a request has been made by a city, county, city and county, or nonprofit organization, pursuant to Section 3692.4, to offer that property at the next scheduled public auction, the tax collector shall have the power to sell and may sell all or any portion of tax-defaulted property that has not been redeemed, without regard to the boundaries of parcels, as provided in this chapter, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to, or interest in, the property, may purchase at the sale.

(B) When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.

(2) Before the tax collector sells vacant residential developed property pursuant to this subdivision, actual notice, by certified mail, shall be provided to the property owner, if the property

owner's identity can be determined from the county assessor's or county recorder's records. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice.

(3) Before the tax collector sells vacant residential developed property pursuant to this subdivision, notice of the sale shall be given in the manner specified by Section 3704.7.

SEC. 3.5. *Section 3691 of the Revenue and Taxation Code is amended to read:*

3691. (a) (1) (A) Five years or more, *or three years or more in the case of nonresidential commercial property*, after the property has become tax defaulted, the tax collector shall have the power to sell and shall attempt to sell in accordance with Section 3692 all or any portion of tax-defaulted property that has not been redeemed, without regard to the boundaries of the parcels, as provided in this chapter, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to, or interest in, the property, may purchase at the sale. In the case of tax-defaulted property that has been damaged by a disaster in an area declared to be a disaster area by local, state, or federal officials and whose damage has not been substantially repaired, the five-year period set forth in this subdivision shall be tolled until five years have elapsed from the date the damage to the property was incurred.

(B) *A county may elect, by an ordinance or resolution adopted by a majority vote of its entire governing body, to have the five-year time period described in subparagraph (A) apply to tax-defaulted nonresidential commercial property.*

(C) *For purposes of this subdivision, "nonresidential commercial property" means all property except the following:*

(i) *A constructed single-family or multifamily unit that is intended to be used primarily as a permanent residence, is used primarily as a permanent residence, or that is zoned as a residence, and the land on which that unit is constructed.*

(ii) *Real property that is used and zoned for producing commercial agricultural commodities.*

(2) When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.

1 (3) *The tax collector shall provide notice of an intended sale*
2 *under this subdivision in the manner prescribed by Sections 3704*
3 *and 3704.5 and any other applicable statute. If the intended sale*
4 *is of nonresidential commercial property that has been*
5 *tax-defaulted for fewer than 5 years, all of the following apply:*

6 (A) *On or before the notice date, the tax collector shall also*
7 *mail, in the manner specified in paragraph (1) of subdivision (c)*
8 *of Section 2924b of the Civil Code, notice containing any*
9 *information contained in the publication required under Sections*
10 *3704 and 3704.5 to, as applicable, all of the following:*

11 (i) *The parties specified in paragraph (2) of subdivision (c) of*
12 *Section 2924b of the Civil Code.*

13 (ii) *Each taxing agency specified in paragraph (3) of*
14 *subdivision (c) of Section 2924b of the Civil Code.*

15 (iii) *Any beneficiary of a deed of trust or a mortgagee of any*
16 *mortgage recorded against the nonresidential commercial*
17 *property, and any assignee or vendee of these beneficiaries or*
18 *mortgagees.*

19 (B) *For purposes of this paragraph:*

20 (i) *“Notice date” means a date at least 90 days before an*
21 *intended sale or at least 90 days before the date upon which the*
22 *property may be sold.*

23 (ii) *“Recording date of the notice of default” as used in*
24 *subdivision (c) of Section 2924b of the Civil Code means a date*
25 *that is 30 days before the notice date.*

26 (iii) *“Deed of trust or mortgage being foreclosed” as used in*
27 *subdivision (c) of Section 2924b of the Civil Code means the*
28 *defaulted tax lien.*

29 (b) (1) (A) *Three years or more after the property has become*
30 *tax defaulted and subject to a nuisance abatement lien or a request*
31 *has been made by a city, county, city and county, or nonprofit*
32 *organization, pursuant to Section 3692.4, to offer that property at*
33 *the next scheduled public auction, the tax collector shall have the*
34 *power to sell and may sell all or any portion of tax-defaulted*
35 *property that has not been redeemed, without regard to the*
36 *boundaries of parcels, as provided in this chapter, unless by other*
37 *provisions of law the property is not subject to sale. Any person,*
38 *regardless of any prior or existing lien on, claim to, or interest in,*
39 *the property, may purchase at the sale.*

(B) When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.

(2) Before the tax collector sells vacant residential developed property pursuant to this subdivision, actual notice, by certified mail, shall be provided to the property owner, if the property owner's identity can be determined from the county assessor's or county recorder's records. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice.

(3) Before the tax collector sells vacant residential developed property pursuant to this subdivision, notice of the sale shall be given in the manner specified by Section 3704.7.

(c) The amendments made to this section by the act adding this subdivision apply to property that becomes tax defaulted on or after January 1, 2005.

SEC. 4. Section 3691.2 of the Revenue and Taxation Code is amended to read:

3691.2. The notice shall specify:

(a) That five years or more have elapsed since the taxes or assessments on the parcel were declared in default, or that, pursuant to Section 3692.4, three years or more have elapsed and a request has been made by a city, county, city and county, or nonprofit organization to offer that property at the next scheduled public auction.

(b) That the property was duly assessed for taxation and the tax legally levied.

(c) That the property is subject to sale for nonpayment of taxes.

(d) The amount of taxes originally declared to be in default, unless there has been a partial cancellation of taxes, a redemption from a portion thereof, or a correction under Sections 4831.5 and 4876.5, in any of which events, the amount shall be the balance remaining.

(e) A metes and bounds or lot-block-tract description of the property.

SEC. 4.5. *Section 3691.2 of the Revenue and Taxation Code is amended to read:*

3691.2. The notice shall specify:

1 (a) ~~That~~ *A statement that five years or more have elapsed since*
2 *the taxes or assessments on the parcel were declared in default;*
3 *that three years or more in the case of nonresidential commercial*
4 *property, as defined in Section 3691, have elapsed since the taxes*
5 *or assessments on the parcel were declared in default; or that,*
6 *pursuant to Section 3692.4, three years or more have elapsed and*
7 *a request has been made by a city, county, city and county, or*
8 *nonprofit organization to offer that property at the next scheduled*
9 *public auction.*

10 (b) That the property was duly assessed for taxation and the tax
11 legally levied.

12 (c) That the property is subject to sale for nonpayment of taxes.

13 (d) The amount of taxes originally declared to be in default,
14 unless there has been a partial cancellation of taxes, a redemption
15 from a portion thereof, or a correction under Sections 4831.5 and
16 4876.5, in any of which events, the amount shall be the balance
17 remaining.

18 (e) A metes and bounds or lot-block-tract description of the
19 property.

20 SEC. 5. Section 3692.4 is added to the Revenue and Taxation
21 Code, to read:

22 3692.4. (a) Notwithstanding any other provision of law, any
23 county, city, city and county, or any nonprofit organization as
24 defined in Section 3772.5, may request the tax collector to bring
25 to the next scheduled public auction any residential real property
26 that meets all of the following requirements:

27 (1) The property taxes have been delinquent for at least three
28 years.

29 (2) The real property will serve the public benefit of providing
30 housing directly related to low-income persons.

31 (3) The real property is not occupied by the owner as his or her
32 principal place of residence.

33 (b) Every request submitted to the tax collector shall include
34 the following:

35 (1) A formal resolution of the governing board of the county,
36 city, city and county, or nonprofit organization, requesting the
37 accelerated auction of the real property and stating the public
38 benefit.

1 (2) A written plan for the development, rehabilitation, or
2 proposed use of the real property and how low-income persons
3 will be served.

4 (3) If the request is from a nonprofit organization, the request
5 shall have a formal resolution of approval from the city council of
6 the city in which the real property is located, or from the board of
7 supervisors of the county if the real property is located in an
8 unincorporated area.

9 (c) Upon receiving a request as provided by this section, the tax
10 collector shall include the real property in the next scheduled
11 public auction.

12 (d) If the real property is acquired by a nonprofit organization
13 at auction, a deed restriction shall be placed on the real property,
14 requiring the real property to be used for low-income housing for
15 a period of 30 years.

16 (e) This section may not be construed to preclude the
17 application, to the real property or the current owners of that
18 property, of any other provision of law not in conflict with this
19 section.

20 SEC. 6. Section 4217 of the Revenue and Taxation Code is
21 amended to read:

22 4217. Any person may elect to pay delinquent taxes in
23 installments under this article at any time prior to 5 p.m. on the last
24 business day prior to the date when the tax collector obtains the
25 power to sell the property, except that if payment of delinquent
26 taxes in installments is started under this article and the amount
27 required to be paid in any fiscal year is not paid as required by this
28 article, payments on property which, but for the installment
29 redemption plan, would have been subject to a power of sale
30 pursuant to Section 3691 during the calendar year in which default
31 on the redemption plan occurs may not again be started under this
32 article. All other payments may be started on or after July 1 of the
33 fiscal year commencing after the fiscal year in which default
34 occurred.

35 Persons electing to pay delinquent taxes in installments may be
36 subject to a fee for processing their request.

37 The fee for payment of delinquent taxes in installments to the
38 tax collector may be established by ordinance by the board of
39 supervisors. The fee shall be governed by the provisions of
40 Chapter 12.5 (commencing with Section 54985) of Part 1 of



Division 2 of Title 5 of the Government Code and may be collected on the tax bill.

SEC. 6.5. Section 4217 of the Revenue and Taxation Code is amended to read:

4217. (a) Any person may elect to pay delinquent taxes in installments under this article at any time prior to 5 p.m. on ~~June 30 of the fifth year after the last business day prior to the date when the tax collector obtains the power to sell the property became tax defaulted,~~ except that if payment of delinquent taxes in installments is started under this article and the amount required to be paid in any fiscal year is not paid as required by this article, payments on property ~~which—that,~~ but for the installment redemption plan, would have been subject to a power of sale pursuant to Section 3691 during the calendar year in which default on the redemption plan occurs may not again be started under this article. All other payments may be started on or after July 1 of the fiscal year commencing after the fiscal year in which default occurred.

Persons

(b) (1) A person electing to pay delinquent taxes in installments may be subject to a fee for processing ~~their—the~~ person's request.

The

(2) The fee for payment of delinquent taxes in installments to the tax collector may be established by ordinance by the board of supervisors. The fee shall be governed by the provisions of Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code and may be collected on the tax bill.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

SEC. 8. Section 1.5 of this bill incorporates the same substantive changes to Section 3361 of the Revenue and Taxation Code proposed by both this bill and AB 2144. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2005, (2) each bill amends Section 3361 of the

1 Revenue and Taxation Code, and (3) this bill is enacted after AB
2 2144, in which case Section 1 of this bill shall not become
3 operative.

4 SEC. 9. Section 2.5 of this bill incorporates the same
5 substantive changes to Section 3362 of the Revenue and Taxation
6 Code proposed by both this bill and AB 2144. It shall only become
7 operative if (1) both bills are enacted and become effective on or
8 before January 1, 2005, (2) each bill amends Section 3362 of the
9 Revenue and Taxation Code, and (3) this bill is enacted after AB
10 2144, in which case Section 2 of this bill shall not become
11 operative.

12 SEC. 10. Section 3.5 of this bill incorporates amendments to
13 Section 3691 of the Revenue and Taxation Code proposed by both
14 this bill and AB 2144. It shall only become operative if (1) both
15 bills are enacted and become effective on or before January 1,
16 2005, (2) each bill amends Section 3691 of the Revenue and
17 Taxation Code, and (3) this bill is enacted after AB 2144, in which
18 case Section 3 of this bill shall not become operative.

19 SEC. 11. Section 4.5 of this bill incorporates the same
20 substantive changes to Section 3691.2 of the Revenue and Taxation
21 Code proposed by both this bill and AB 2144. It shall only become
22 operative if (1) both bills are enacted and become effective on or
23 before January 1, 2005, (2) each bill amends Section 3691.2 of the
24 Revenue and Taxation Code, and (3) this bill is enacted after AB
25 2144, in which case Section 4 of this bill shall not become
26 operative.

27 SEC. 12. Section 6.5 of this bill incorporates the same
28 substantive changes to Section 4217 of the Revenue and Taxation
29 Code proposed by both this bill and AB 2144. It shall only become
30 operative if (1) both bills are enacted and become effective on or
31 before January 1, 2005, (2) each bill amends Section 4217 of the
32 Revenue and Taxation Code, and (3) this bill is enacted after AB
33 2144, in which case Section 6 of this bill shall not become
34 operative.

